

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

**LUIS RAUL DIAZ-MORALES and
his wife AURORA DIAZ-VARGAS,
and the legal partnership constituted
between them**

Plaintiffs

Vs.

**UNIVERSIDAD DE PUERTO RICO;
TRIPLE S PROPIEDAD, INC.**

Defendants

Civil no.:

Re: DAMAGES; JURY TRIAL
DEMANDED

COMPLAINT

COME NOW the plaintiffs, through the undersigned attorney, and to the Honorable Court, as their Complaint, do allege and pray as follows:

JURISDICTION AND VENUE

- 1) Jurisdiction arises out of 28 U.S. Code § 1332 (a), *et seq.*, inasmuch as the Plaintiffs are *bona fide* residents, and domiciled in the State of Ohio, and the defendants are corporate entities in existence pursuant to the laws of the Commonwealth of Puerto Rico.
- 2) Inasmuch as the majority of the salient facts alleged in this Complaint, occurred within the District of Puerto Rico, venue is proper therein.

THE PARTIES

- 3) Co-Plaintiff Raul Diaz is of legal age, married, retired and resident of the State of Ohio in excess of one year. His wife, coplaintiff Aurora Diaz is also of legal age, married, a housewife and also a resident of the State of Ohio in excess of one year. His physical address is 118 Jackson St., Campbell, Ohio 44405.
- 4) Co-defendant Universidad de Puerto Rico is a public corporation created, organized and active under the laws of the Commonwealth of Puerto Rico with principal offices and place of business in San Juan, Puerto Rico. Hospital Universitario de Adulto is a medical facility which belongs to codefendant Universidad de Puerto Rico.
- 5) Co-defendant Triple S Propiedad, Inc. is an insurance company which, at the time of occurrence of the facts narrated herein, had an insurance policy in favor of the holder, codefendant Universidad de Puerto Rico, covering damages as the ones included in the averments of this Complaint. Triple S Propiedad Inc.'s physical address is 1510 F.D. Roosevelt Ave., Guaynabo, Puerto Rico 00968.

THE FACTS

A) On May 24, 2019, coplaintiff Luis Raul Diaz-Morales (hereinafter referred to as Diaz-Morales), was admitted to Hospital Universitario de Adultos with a diagnosis of mandibular symphysis OKC (D16.5), and a recommendation for a mandibular excision, peripheral ostectomy, AICBG and reconstruction bone graft (21194)

B) The surgical procedure was successfully performed by the attending physician, and the bone graft was obtained from a piece of thigh bone from Diaz-Morales.

C) In addition, as part of this procedure, an odontogenic cyst was removed from Diaz-Morales. He was discharged on May 27, 2019, with a follow up medical visit scheduled for May 29, 2019.

D) On the May 29, 2019 follow up medical visit, Diaz-Morales was found to be suffering from a postoperative infection and was immediately ushered to the Emergency Ward to be readmitted for further proceedings.

E) While walking along with his sister, and coplaintiff Diaz-Vargas, with a walking frame assisting him, due to the complications to his thigh, arising out of the bone graft procedure, Diaz-Morales forcefully and unexpectedly tripped with an uneven surface lying in the passageway, falling abruptly and awkwardly to the floor, hitting, with great impact, the left side of his head and face and other parts of his body.

F) Due to all of the above, and to the infection and inflammatory reaction to the implant and bone graft, and exposure of the implanted mesh into organ or tissue, Diaz-Morales was forced to yet another surgical procedure.

G) The extent of the damages suffered by Diaz-Morales are of such nature to have forced him to continue receiving medical treatment and care for his ailments, and even physically transferring him to Ohio to pursue added and more specialized medical attention and care.

H) His damages are of a continual nature as his mandible was severely damaged with the fall, forcing even extraction of teeth, problems with the mesh, and Diaz-Morales has, *inter alia*, serious problems in talking, eating, experiencing continuous pain in different parts of his body, and his medical condition has improved very little, if at all. All of this has obliged him to take constant doses

of analgesic medicine. This, in turn, has affected, on a daily basis, his ambulatory physical movement and capability to do everyday chores.

He has been recently told by his doctor in Ohio of the possibility of undergoing yet another surgical procedure in order to alleviate, and, if at all, correct, discomforts and pain producing symptoms produced by the fall.

THE DAMAGES

- I) Among other damages herein claimed, the plaintiffs have suffered episodes of incontrollable grief and crying, insomnia, headaches, loss of appetite, depression and ailments of different nature and intensity.
- II) Damages suffered by the plaintiffs, on account of all of the above, are computed in an amount no less than **ONE MILLION DOLLARS (\$1,000,000.00)**.
- III) The proximate cause of the damages suffered by co-plaintiff Diaz-Morales when he fell to the floor, is the unstable and insecure conditions that policy holder Universidad de Puerto Rico kept at the hallway in the form of a plastic coverage of cables, or other unknown property.

IV) Defendant Triple S Propiedad, Inc. is hereby responsible and liable for the damages alleged herein inasmuch as, of the date of the occurrence of the facts above related, there was in effect a policy in favor of policy holder Universidad de Puerto Rico covering the type of damages averred in this Complaint. Tolling of the statute of limitations was interrupted by an extrajudicial demand pursuant to Puerto Rico law. The same was answered by Davana Group, identified as the external adjusters for this case on behalf of Triple S Propiedad, Inc.

V) Punitive damages are also demanded in the amount of **ONE MILLION DOLLARS (\$1,000,000.00)**.

WHEREFORE, it is respectfully requested from the Honorable Court to enter judgment in favor of plaintiff and against the defendants in the total amount of **TWO MILLION DOLLARS (\$2,000,000.00)**, legal interest computed from the date the Judgment is entered, costs and expenses and a reasonable amount for legal fees.

JURY TRIAL IS HEREBY DEMANDED.

In San Juan, Puerto Rico, this 11th day of November, 2020

RESPECTFULLY SUBMITTED

/s/ Jose R. Franco Rivera

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